SUPREME COURT, U. S.

MAY 1 1972

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1971
No. 71-1421

DORIS KISTLER BELL,

Petitioner,

vs.

EDWIN RYLAND TAYLOR, etc.,

Respondent.

On Writ of Certiorari to the
Court of Appeal of California,
Second Appellate District

PETITION FOR WRIT OF CERTIORARI

DORIS KISTLER BELL
4518 Sylmar Avenue
Sherman Oaks, California 91403
(213) 784-5486

Petitioner in Propria Persona

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1971
No. _____

DORIS KISTLER BELL,

Petitioner,

vs.

EDWIN RYLAND TAYLOR, etc.,

Respondent.

On Writ of Certiorari to the
Court of Appeal of California,
Second Appellate District

PETITION FOR WRIT OF CERTIORARI

DORIS KISTLER BELL
4518 Sylmar Avenue
Sherman Oaks, California 91403
(213) 784-5486

Petitioner in Propria Persona

SUBJECT INDEX

	Page
OPINIONS OF THE COURTS BELOW	2
JURISDICTION	3
QUESTIONS PRESENTED FOR REVIEW	4
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	5
STATEMENT OF THE CASE	12
REASONS RELIED ON FOR ALLOWANCE OF WRIT OF CERTIORARI	20
I This Court Should Apply the Principles of the Harmless Error Rule in Civil Cases Involving Sniadach	20
II This Court Should Make Plain that Summary Prejudgment Attachment Can, and Probably Does, Deny to Defendant a Fair Trial in Civil Cases Involving Sniadach	21
CONCLUSION	22

INDEX TO APPENDICES

	Appendix Page	Page
APPENDIX A OPINION OF THE COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT	A-1	1
APPENDIX B ORDER DENYING REHEARING IN THE COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT	B-1	11
APPENDIX C ORDER DENYING HEARING IN THE SUPREME COURT OF CALIFORNIA	C-1	12
APPENDIX D OPINION OF THE SUPERIOR COURT OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES	D-1	13
APPENDIX E ORDER DENYING NEW TRIAL IN THE SUPERIOR COURT OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES	E-1	25
APPENDIX F ORDER OF THE COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DENYING STAY	F-1	27

TABLE OF AUTHORITIES

Cases	Page
Blair v. Pitchess, 5 Cal. 3d 258	18
Cline v. Credit Bureau, 1 Cal. 3d 908	18
McCallop v. Carberry, 1 Cal. 3d 903	18
Modern Management v. Superior Court, 20 Cal. App. 3d 496	18
Randone v. Appellate Department, 5 Cal. 3d 536	15, 18, 21
Sniadach v. Family Finance, 395 U. S. 337	4, 15, 17 18, 20, 21, 22
Taylor v. Bell, 21 Cal. App. 3d 1002	2, 19
Official Record	
Los Angeles County Document 3972, Book R 3803, Page 93	16
Constitutions	
California Constitution Article I, Section 3	5, 6

California Constitution
Article I, Section 22 5, 6

California Constitution
Article VI, Section 13 5, 6, 19

United States Constitution
Fourteenth Amendment 3, 4

United States Constitution,
Fourteenth Amendment,
Section 1 5

Statutes

California Civil Code
Section 3532 5, 7

California Code of Civil Procedure
Section 537, subdivision 1 5, 7
13, 18

United States Code
Title 28, Section 1257 (3) 3

Textbook

West's Annotated California Codes,
Volume 15, Cumulative Pocket
Part for use in 1971,
Pages 91 and 92 7

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1971
No. _____

DORIS KISTLER BELL,

Petitioner,

vs.

EDWIN RYLAND TAYLOR, etc.,

Respondent.

PETITION FOR WRIT OF CERTIORARI

TO THE HONORABLE, THE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

Petitioner Doris Kistler Bell respectfully prays that a Writ of Certiorari issue to review the judgment of the Court of Appeal of California, Second Appellate District entered on February 3, 1972. This judgment affirmed, on the ground that from any error complained of as to procedure no miscarriage of justice resulted, a judgment below of the Superior Court of California for the

County of Los Angeles entered on October 29, 1969, holding petitioner (who is defendant below) liable in a civil case on five unsecured promissory notes executed by her after September 15, 1963 and prior to March 1, 1964 in favor of one Joseph Leon Taylor (deceased as from November 14, 1966), together with prejudgment interest and costs of suit, less twenty-five hundred dollars for the fair value of her services in managing certain real properties for Taylor. Respondent (who is plaintiff below) is executor of Taylor's estate.

OPINIONS OF THE COURTS BELOW

The opinion of the Court of Appeal of California, Second Appellate District, has been reported as Taylor v. Bell, 21 Cal. App. 3d 1002 (1972), and is set forth in Appendix A to this petition. The opinion of the Superior Court of California for the County of Los Angeles has not been reported, but is set forth in Appendix D to this petition (Appendix page 13).

Petitioner will request that the record on appeal in this case be timely lodged with this court. It consists in a complete reporter's transcript, an extensive clerk's transcript, and the briefs and petitions.

JURISDICTION

The judgment of the Court of Appeal of California, Second Appellate District which is here sought to be reviewed was dated December 10, 1971, and was entered on February 3, 1972.

A petition for rehearing in that court was filed in time by petitioner herein on December 22, 1971 and denied without opinion on December 23, 1971. For the order denying rehearing see Appendix B hereto (Appendix page 11).

A petition for hearing was filed in time by petitioner herein in the Supreme Court of California on January 18, 1972, and was denied without opinion on February 3, 1972. For the order denying hearing, see Appendix C hereto (Appendix page 12).

Petitioner has neither requested nor been granted an extension of time within which to petition for certiorari.

The statutory provision believed by petitioner to confer on this court jurisdiction to review the judgment in question is Title 28, United States Code, Section 1257 (3), because it is believed that the effect of the state courts' exercise of jurisdiction in the circumstances of this case deprived petitioner of substantial federal constitutional rights under the Fourteenth Amendment to the Constitution of the United States.

QUESTIONS PRESENTED FOR REVIEW

1. Was it futile in the circumstances of this civil case for petitioner to attempt to raise relevant federal questions involving denial to her of due process either on trial or on appeal in the state courts of California?

2. Did both the trial court and the Court of Appeal of California, Second Appellate District, necessarily, in obedience to the commands of the Constitution of the State of California, consider and decide in this case all relevant federal questions involving denial to petitioner of that procedural due process guaranteed to her by the Fourteenth Amendment to the Constitution of the United States?

3. Is the decision of this court in Sniadach v. Family Finance (395 U.S. 337) applicable to this case?

4. Are the decisions in this case of the trial court and of the Court of Appeal of California, Second Appellate District, in accord with the decision of this court in Sniadach v. Family Finance (395 U.S. 337)?

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Petitioner believes that this case involves Section 1 of the Fourteenth Amendment to the Constitution of the United States; the following provisions of the Constitution of the State of California:

Article I, Section 3, Section 22;
Article VI, Section 13;

California Civil Code, Section 3532; and California Code of Civil Procedure, Section 537, subdivision 1.

All these constitutional and statutory provisions are set forth verbatim immediately below.

Constitution of the United States, Amendment XIV, Section 1:

> "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the

equal protection of the laws."

Constitution of the State of California, Article I:

"Section 3. The State of California is an inseparable part of the American Union, and the Constitution of the United States is the supreme law of the land."

"Section 22. The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise."

Constitution of the State of California, Article VI:

"Section 13. No judgment shall be set aside, or new trial granted, in any cause, on the ground of misdirection of the jury, or of the improper admission or rejection of evidence, or for any error as to any matter of pleading, or for any error as to any matter of procedure, unless, after an examination of the entire cause, including the evidence, the court shall be of the opinion that the error complained of has resulted in a miscarriage of justice."

(These three provisions of the Constitution of the State of California are believed to have remained unchanged during the period from

November 8, 1966 to the present time.)

California Civil Code, Section 3532:

> "The law neither does nor requires idle acts."
> (A maxim of jurisprudence believed unchanged since 1872.)

Its complicated legislative history suggests that California Code of Civil Procedure, Section 537, subdivision 1, be presented here in quotation from West's Annotated California Codes, Volume 15, Cumulative Pocket Part for use in 1971, pages 91 and 92; but in advance summary, it can be suggested that the gist of the statute in the circumstances of this case is simply this, quoted from its text as it stood before the amendment of 1957:

> "The plaintiff, at the time of issuing the summons, or at any time afterward, may have the property of the defendant attached, as security for the satisfaction of any judgment that may be recovered, . . ."

> "Code of Civil Procedure, §537. Chapter 4, Attachment.
>
> "Sec. 545.1 Examination; attendance of persons outside county; 150 mile limit [New].

"553.5 Release from attachment upon filing of undertaking on appeal [New].

"Law Review Commentaries
The constitutional validity of attachment in light of Sniadach v. Family Finance Corp. (1970) 17 U.C.L.A. Law Rev. 837.

"§537. Actions in which authorized; time.

The plaintiff, at the time of issuing the summons, or at any time afterward, may have the property of the defendant attached, except earnings of the defendant as provided in Section 690.6, as security for the satisfaction of any judgment that may be recovered, unless the defendant gives security to pay such judgment, as in this chapter provided, in the following cases:

"1. Unsecured contract; support actions.

"1. In an action upon a contract, express or implied, for the direct payment of money, (a) where the contract is made or is payable in the state; or (b) where the contract is made outside this state and is not payable in this state and the amount of the claim based upon such contract exceeds five thousand dollars ($5,000); and where the contract described in either (a) or (b) is not secured by any mortgage, deed of trust, or lien upon real or personal property,

or any pledge of personal property, or, if originally so secured, such security has, without any act of the plaintiff, or the person to whom the security was given, become valueless. An action upon any liability, existing under the laws of this state, of a spouse, relative, or kindred, for the support, maintenance, care, or necessaries furnished to the other spouse, or other relatives or kindred, shall be deemed to be an action upon an implied contract within the term as used throughout all subdivisions of this section. An action brought pursuant to Section 1692 of the Civil Code shall be deemed an action upon an implied contract within the meaning of that term as used in this section.

"2. Contracts of nonresidents and absentees.

"2. In an action upon a contract, express or implied, against a defendant not residing in this state, or who has departed from the state, or who cannot after due diligence be found within the state, or who conceals himself to avoid service of summons.

"3. Damages for injuries by nonresidents or absentees.

"3. In an action against a defendant, not residing in this state, or who has departed from the state, or who cannot after due diligence be

found within the state, or who conceals himself to avoid service of summons, to recover a sum of money as damages, arising from an injury to or death of a person, or damage to property in this state, in consequence of negligence, fraud, or other wrongful act.

"4. Unlawful detainer; unsecured rent.

"4. In an action in unlawful detainer where it appears from the verified complaint on file therein that rent is actually due and payable from the defendant to the plaintiff for the premises sought to be recovered in said action; provided, the payment of such rent is not secured by any mortgage or lien upon real or personal property, or, if originally so secured, such security has, without any act of the plaintiff or the person to whom the security was given, become valueless.

"5. Actions by state or political subdivisions for taxes or on obligations.

"5. In an action by the State of California or any political subdivision thereof, for the collection of taxes due said state or political subdivision, or for the collection of any moneys due upon any obligation or penalty imposed by law.

"6. Actions for recovery of funds expended in narcotics investigations. Asterisks * * * indicate deletions by amendment."
(Page 91.)

"6. In any action by the State of California, or any political subdivision thereof, for the recovery of funds pursuant to Section 11680.5 of the Health and Safety Code. In such cases, funds on the defendant's person at the time of his arrest which are retained in official custody shall also be subject to attachment.
(Amended by Stats. 1957, c. 1660, p. 3040, §1; Stats. 1961, c. 589, p. 1737, §9; Stats. 1961, c. 1164, p. 2906, §2; Stats. 1963, c. 50, p. 676, §1; Stats. 1965, c. 1375, p. 3279, §1; Stats. 1970, c. 1523, p. __, §2.)

"1957 Amendment. Added actions to recover damages arising from personal injuries in subd. 3.

"1961 Amendments. Deleted words 'provided that' formerly appearing before what now appears as second sentence, added final sentence of first paragraph, and added subd. 6.

"1963 Amendment. Substituted, in subd. 3, the words 'arising from an injury to or death of a person, or damage to property' for 'arising from

an injury to person or property.'

"1965 Amendment. Added provision in subd. 1(b) including out-of-state contracts involving claims in excess of $5000.

"1970 Amendment. Excepted earnings of defendant as provided in section 690.6 in introductory paragraph."

* * * * *

(Page 92.)

STATEMENT OF THE CASE

The federal questions sought to be reviewed in this case (supra, page 4) were not explicitly raised by petitioner either on trial, in her opening brief on appeal, or in her petition for rehearing in the California Court of Appeal, Second Appellate District. Petitioner may have raised some of these questions, and these perhaps to a relatively limited extent, in her petition for hearing in the Supreme Court of California, which petition was filed in time on January 18, 1972. It was denied without opinion on February 3, 1972 (Appendix page 12 infra). The petition is a part of the record on appeal.

On May 20, 1969, trial of this case commenced, and the trial court ascertained that petitioner's residence (now and continuously

for the past twenty-eight years) and only resource had been subjected to a currently valid summary prejudgment attachment under California Code of Civil Procedure, Section 537, subdivision 1 (supra, page 7) on September 20, 1967, the fifth day following the date of filing of respondent's complaint. This transaction follows verbatim, taken from the record on appeal, Reporter's Transcript, page 75 at line 2 to and including page 75A at line 9:

> "Why were these notes appraised at less than their face value?
>
> "Did you handle the estate?
>
> "MR. JOHNSON: Yes.
>
> "I am representing Mr. Taylor, the executor.
>
> "It appeared that, from an initial investigation, that Mrs. Bell was more or less judgment proof. That is, neither husband or wife appear to be employed.
>
> "We did -- I did, subsequently find that they owned a piece of real property that was free and clear, so then, I think, if I recall correctly, we brought the action in the event we did get

judgment and I think at the time we sent in the inventory to the appraiser.

"THE COURT: You don't contend that Mrs. Bell's property is subject to an attachment, do you; or execution, do you?

"MR. JOHNSON: Only to the extent that we are pursuing on a written contract for the payment of money.

"THE COURT: Do you contend that involves Mr. Bell or is this the wife's personal transaction?

"MR. JOHNSON: My information is they held it as joint tenants and we didn't know at the time, Your Honor, of this Hortense property.

"At least, I didn't, and didn't realize that a house had been purchased with part of these funds for Mrs. Kistler.

"THE WITNESS: Your Honor, I had told Mr. Johnson that; all about this whole thing before I ever got an attorney and I did tell him that.

"THE COURT: Have you seen these, Mr. Johnson?

"THE WITNESS: They attached my husband's and my property.

"It's the attachment, I think.

"THE COURT: Affidavit of Attachment."

This attachment was to persist until December 3, 1971, as is shown by the Sheriff's release copied here from the Official Records, County of Los Angeles, Document No. 3972 at Book R 3803, Page 93 as fold out page 16 herein.

This release of petitioner's property from summary prejudgment attachment was ordered by the trial court on granting of petitioner's motion therefor over the opposition of respondent, and on the authority of Randone v. Appellate Department (5 Cal. 3d 536), which itself rests, of course, on the authority of Sniadach (supra, page 4).

At the time the release of petitioner's property was ordered, she had, of course, perfected her appeal, including the deposit with the trial court of a quite substantial sum in cash in lieu of staybond. One wonders why respondent opposed the release of her property. Since the theory that real property is more desirable than money is quite reasonable, it may be that respondent was moved by such a theory. In that case he would have found the

Recording Requested by
PETER J. PITCHESS, Sheriff

When recorded mail to
PETER J. PITCHESS, Sheriff
Civil Division
123 L. A. County Courthouse
Los Angeles 12, California

3972

BR3803PG 93

RECORDED IN OFFICIAL RECORDS
OF LOS ANGELES COUNTY, CALIF.
1 Min. Past 4 P.M. DEC 3 1971
Registrar-Recorder

FEE $2

Space above this line for Recorder's use

COUNTY OF LOS ANGELES, SHERIFF'S DEPARTMENT

RELEASE OF REAL ESTATE Case No. NW C 11 245

EDWIN RYLAND TAYLOR, Executor of the Estate of JOSEPH LEON TAYLORaka JOSEPH L. TAYLOR, Deceased — PLAINTIFF

vs

DORIS KISTLER BELL — DEFENDANT

All right, title and interest of Defendant (s) and/or Judgment Debtor(s)

DORIS KISTLER BELL

all of the
in ~~xhexxxxxxxxxxxxxxxxxx~~ real property located in the County of Los Angeles, State of California, heretofore levied upon by me on SEPTEMBER 20th 19 67 and recorded as Document No. 4901 in Book M2663 Page 600 of Official Records, is hereby released from said levy:

I HEREBY CERTIFY THIS IS A TRUE COPY
OF THE RECORD IN BOOK R3803 PAGE 93
IF IMPRESSED WITH THE SEAL OF THIS OFFICE.

DEC 10 1971

FEE $ 2.00

ORDER NO. 9881

REGISTRAR-RECORDER
COUNTY OF LOS ANGELES
STATE OF CALIFORNIA

DATED: 12-3-71

PETER J. PITCHESS, Sheriff

By J. R. Humber
Deputy

COUNTY OF LOS ANGELES)
STATE OF CALIFORNIA) SS

On DECEMBER 3 1971, before me, the undersigned, personally appeared J. R. HUMBER, CAPTAIN, Deputy, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same as such Deputy, and on behalf of Peter J. Pitchess, Sheriff of Los Angeles County.

WITNESS my hand and official seal.

123 L. A. County Courthouse
Los Angeles 12, California

1 Min. Past 4 P.M. DEC 3 1971
Registrar-Recorder

FEE $2.00

Space above this line for Recorder's use

COUNTY OF LOS ANGELES, SHERIFF'S DEPARTMENT

RELEASE OF REAL ESTATE Case No. NW C 11 245

EDWIN RYLAND TAYLOR, Executor of the Estate of JOSEPH LEON TAYLORaka JOSEPH L. TAYLOR, Deceased — PLAINTIFF

vs

DORIS KISTLER BELL — DEFENDANT

All right, title and interest of Defendant (s) and/or Judgment Debtor(s)

DORIS KISTLER BELL

all of the

in ~~xxxxxxxxxxxxxxxxxxxxxxxx~~ real property located in the County of Los Angeles, State of California, heretofore levied upon by me on SEPTEMBER 20th 19 67 and recorded as Document No. 4901 in Book M2663 Page 600 of Official Records, is hereby released from said levy.

I HEREBY CERTIFY THIS IS A TRUE COPY OF THE RECORD IN BOOK D 3 AT PAGE 93 IF IMPRESSED WITH THE SEAL OF THIS OFFICE.

DEC 10 1971

FEE $ 2.00

ORDER NO. 9841

REGISTRAR-RECORDER
COUNTY OF LOS ANGELES
STATE OF CALIFORNIA

DATED: 12-3-71

PETER J. PITCHESS, Sheriff

By J. R. Humber
Deputy

COUNTY OF LOS ANGELES)
STATE OF CALIFORNIA) SS

On DECEMBER 3 1971, before me, the undersigned, personally appeared J. R. HUMBER, CAPTAIN, Deputy, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same as such Deputy, and on behalf of Peter J. Pitchess, Sheriff of Los Angeles County.

WITNESS my hand and official seal.

Karen K. Hayhurst

Notary Public in and for the County of Los Angeles, State of California.

OFFICIAL SEAL
Karen K. Hayhurst
NOTARY PUBLIC - CALIFORNIA
PRINCIPAL OFFICE IN
LOS ANGELES COUNTY
My Commission Expires February 23, 1972

possibility of summary prejudgment attachment and consequent leverage on a distressed defendant a very attractive proposition, making an otherwise unprofitable suit most worthwhile. But he had to take the cash, which came in very handily in his and his counsel's main problem, the settlement of Taylor's rather sickly estate, just concluded.

On June 6, 1969, this case was taken under submission by the trial court.

On June 9, 1969, this court decided Sniadach (supra, page 4).

On June 12, 1969, the trial court reopened the case and set trial for July 18, 1969. At this latter date, the case was summarily ordered continued to August 28, 1969. On August 28, 1969, this case was tried, argued, and submitted, and the trial court announced its intended decision. Judgment was entered by the trial court on October 29, 1969 (Appendix D, infra, Appendix page 20).

Petitioner's motion in time to the trial court for new trial was heard, argued, and denied without opinion on December 12, 1969 (Appendix E, infra, Appendix page 25).

Petitioner perfected appeal from an alleged error as to a matter of procedure (that the order of continuance made by the trial court on July 18, 1969, was without good cause, deprived her of her right to

proceed, and prejudiced her by delay), filing her opening brief in time in the Court of Appeal of California, Second Appellate District, on January 7, 1971.

On September 23, 1971, the decision of the Supreme Court of California in Randone (supra, page 15) became final, striking down California Code of Civil Procedure, Section 537, subdivision 1 (supra, page 7) on the authority of Sniadach (supra, page 4).

Randone (supra, page 15) had been preceded on the same authority (i.e., Sniadach) in California by:

Cline v. Credit Bureau,
decided January 30, 1970
(1 Cal. 3d 908);

McCallop v. Carberry,
decided January 30, 1970
(1 Cal. 3d 903); and

Blair v. Pitchess,
decided July 1, 1971
(5 Cal. 3d 258);

and was followed by

Modern Management v. Superior Court,
decided October 13, 1971
(20 Cal. App. 3d 496);

on the authority of Randone (supra, page 15).

Petitioner's appeal was heard in the Court of Appeal of California, Second Appellate District, on October 28, 1971, and decided in that court on December 10, 1971. The Court of Appeal of California, Second Appellate District, citing i. a. Article VI, Section 13 of the Constitution of the State of California (supra, page 6), held affirmed (Appendix A, infra; Taylor v. Bell, 21 Cal. App. 3d 1002).

Petitioner's timely petition for rehearing in that court was denied on December 23, 1971, in an order set forth as Appendix B, infra, Appendix page 11.

In an order set forth as Appendix C, infra, Appendix page 12, the Supreme Court of California denied petitioner's timely petition for hearing on February 3, 1972.

The Court of Appeal of California, Second Appellate District, denied petitioner's timely application for stay of remittitur on February 9, 1972, in an order set forth as Appendix F, infra, Appendix page 27.

On March 8, 1972, this court denied petitioner's timely application for stay of enforcement of judgment (Bell v. Taylor, A-899).

The judgment has been enforced, the trial court having directed payment to respondent from petitioner's cash deposit in lieu of staybond on March 14, 1972.

REASONS RELIED ON FOR ALLOWANCE OF WRIT OF CERTIORARI

I

This Court Should Apply the Principles of the Harmless Error Rule in Civil Cases Involving Sniadach

---

The questions for review 1. and 2. presented supra, page 4 have to do with the "harmless error rule," which has been considered by this court in a long line of criminal cases. It seems to petitioner that this court's conclusions and decisions on the "harmless error rule" yield principles which must be applicable in the instant case to these questions, and also in other appropriate civil cases generally. This application of principles seems not to have been carried out by this court so far, but petitioner suggests that is should be now.

II

This Court Should Make Plain that Summary Prejudgment Attachment Can, and Probably Does, Deny to Defendant a Fair Trial in Civil Cases Involving Sniadach

The federal questions 3. and 4. presented supra, page 4, which could not, of course, have arisen before Sniadach, are those involving summary prejudgment attachment in civil cases. For summary prejudgment attachment in civil cases, thought to be innocuous before Sniadach, was created by Sniadach a probable violation of a constitutional right so basic to a fair trial that, after Sniadach, such attachment could never again be treated as harmless error per se. Civil cases ante Sniadach are therefore eliminated as candidates for a previous decision of this court on the questions presented for review supra, page 4.

The post Sniadach cases seem all to be concerned only with the constitutionality of state statutes, e.g., Randone and related cases in California and elsewhere, raising questions resulting from direct attacks on the attachment statute prior to trying the main suit between creditor and debtor.

Petitioner herein has found no precedent for the instant case, and therefore suggests that in this case, the courts of California have

decided federal questions of substance not heretofore determined by this court, and also important questions of federal law which have not been, but should be, settled by this court, both in a way probably not in accord with an applicable decision of this court, viz. Sniadach.

It could be argued that the instant case represents at most a small number of similar cases restricted to a brief period in history, and is therefore of negligible importance; to which petitioner would reply that legislative action in fifty states is already being feverishly mounted in a general and concerted campaign with a long future, aimed at determining, by a process of successive approximation, just where precisely that hair line lies dividing the constitutional from the unconstitutional attachment -- an obvious "growth industry" which ought to be controlled now, before it smothers the too willing courts and beggars the pitiable defendants.

CONCLUSION

The courts of California, by misapplying the harmless error rule and ignoring the violation of a basic constitutional right, denied petitioner a fair trial under color of state law. Petitioner submits that for this reason, and for the other more general reasons given herein,

a Writ of Certiorari should issue to review the decision of the Court of Appeal of California, Second Appellate District.

Respectfully submitted,

DORIS KISTLER BELL

Petitioner in Propria Persona

APPENDIX A

[In the Court of Appeal of the State of California, Second Appellate District, Division Five, filed December 10, 1971, Clay Robbins, Jr., Clerk.]

EDWIN RYLAND TAYLOR, Executor of the Estate of JOSEPH LEON TAYLOR, aka JOSEPH L. TAYLOR, Deceased,	2d Civ. No. 36631
Plaintiff and Respondent,	(Sup. Ct. No. NWC 11245)
vs.	
DORIS KISTLER BELL,	
Defendant and Appellant.	

APPEAL from a judgment of the Superior Court of Los Angeles County. James M. McRoberts, Judge. Affirmed.

Doris Kistler Bell, in propria persona, Defendant and Appellant.

Gerald S. Johnson for Plaintiff and Respondent.

Appeal from a judgment holding defendant Doris Kistler Bell liable on five promissory notes executed by her in favor of Joseph L. Taylor, together with prejudgment interest and costs of suit, less $2,500 for the fair value of her services in managing certain real properties for Taylor. Taylor died after the notes were delivered to him and plaintiff is the executor of his estate.

Defendant, who tried the case in propria persona and who prosecutes this appeal in similar capacity, 1/ does not attack the judgment on its merits. Her complaint on appeal is that the trial court, sitting without a jury, continued trial proceedings on July 18, 1969, without good cause, depriving her of the "right to proceed under appropriate provisions of the Code of Civil Procedure (Manha v. Union Fertilizer Co., 151 Cal. 581, 584, 585; Kalmus v. Kalmus,

---

1/ The notice of appeal was filed by attorney Theodore S. Tabah and he filed an application for an order extending time to file notice designating the clerk's transcript and to prepare order in this court. Whether thereafter there was a formal substitution of defendant in propria persona in place of said counsel does not appear in the record and remains unexplained. Her brief is signed in propria persona and she appeared pro se on date of oral argument.

103 Cal. App. 2d 405; Code of Civil Procedure, §§ 581 (3), 594 (1), 595.4, 596.)"

Defendant had changed counsel at least once prior to the date of trial, which was set for March 3, 1969. On that date, she again changed counsel, and over plaintiff's objection the court continued the trial to March 24, 1969, with the admonition: "No further continuances on basis of substitution of attorney."

On March 24, 1969, the case was again continued upon defendant's motion to May 20, 1969, for trial.

On May 20, 1969, defendant substituted herself in propria persona for the lawyer, who had become counsel of record on March 24, 1969, and the trial was commenced. The court called defendant as its witness and she was interrogated by the court and plaintiff's counsel. Defendant then called her mother, Mrs. Maude G. Kistler, and examined her; thereafter, defendant took the witness stand and testified on her own behalf. The court, being of the opinion that defendant should be given full opportunity to produce all available witnesses and evidence she could muster to prove the affirmative defense set up in her answer, 2/

2/ In substance it was that the notes evidenced advances of capital to defendant for her capital contribution to a series of joint real estate ventures with decedent; that these had been terminated by a division of properties in kind; and that the notes had been cancelled.

informed her of her right to subpoena witnesses and inquired how much time she would need. Defendant asked for three weeks, and the court continued further trial proceedings to June 6, 1969.

On June 6, 1969, defendant called and put on the testimony of seventeen witnesses, including herself. She then called for Lloyd Taylor. Plaintiff's counsel advised the court that Lloyd Taylor was not present, that he was the son of the decedent and a brother of plaintiff executor, that he was served with subpoena on Saturday evening (May 31, 1969), but as a grip for Columbia Broadcasting System he was committed to go to Phoenix or Tucson, Arizona, at 6 a.m. Monday (June 2, 1969), and had left since it would otherwise mean loss of his job. The court offered to continue the case if that witness's testimony were vital to defendant's case and sought to ascertain, very courteously and meticulously (reporter's transcript pages 191-201), the substance and materiality of the testimony she anticipated eliciting from Lloyd Taylor, but she answered only in terms of irrelevant generalities. She then asked for a continuance to bring in a different witness. The court asked her, "Why didn't you produce her here today?" Her reply was, "Well, I was going to but I couldn't get everything done." Thereupon, the request for continuance was denied. The testimony of John L. Luskin was received by way of stipulation. Plaintiff called two rebuttal witnesses and rested. Defendant put on a rebuttal witness and rested. The case was argued and was ordered "to stand submitted."

On June 12, 1969, the court upon its own motion ordered the submission vacated and set the cause down for further hearing on July 18, 1969, to enable defendant to put on the testimony of Lloyd Taylor, who was not present on June 6, 1969. The order also provided that if defendant could not re-serve said witness because of his being out of state, the cause would be continued further until the witness returned.

Defendant admits in her opening brief (p. 20) that the clerk of the superior court stated in a notice (filed July 15, 1969): "This is to advise the request for continuance of trial by [plaintiff's counsel] is granted by the Court; on July 18, 1969, trial will be ordered continued to August 28, 1969 at 9:30 AM. Counsel for plaintiff to give notice." "Counsel for plaintiff/respondent did serve and file said notice of continued trial date on Thursday, July 17, 1969." The reason for the grant of extension was that plaintiff's counsel had advised the court that Lloyd Taylor would not be able to return from Arizona by July 18.

On July 18, 1969, plaintiff's counsel, defendant, and three witnesses other than Lloyd Taylor were nevertheless in court. The court informed the parties, "Your case has been continued." It formally stated, "Taylor versus Bell is continued to August 28, 1969 at 9:30 for further proceedings in this matter." Defendant then asked that the witnesses subpoenaed for that date "be bound over." One witness, Thomas Depuy, informed the court

that he would be out of the country on August 28, 1969. She asked if his testimony could be taken that day, but the court considered it a question of law and advised her that it could not answer. It asked defendant if she were willing to excuse him. The witness offered to "give a document statement to [defendant] pertaining to three questions." Defendant replied, "That will be fine." The court commented that it might not meet the rules of competency. Defendant then inquired: "Does that give me the privilege of taking a deposition?" The court replied, "You will have to ask a lawyer, ma'am." Thereupon, defendant refused to excuse him, but upon the court's ascertaining that he had his "reservations for Europe," defendant indicated she was agreeable to his being excused. Two witnesses, Justine Adamsak and Esther Franklin, were ordered to return to the court on August 28, 1969, at 9:30 without further order.

On August 28, 1969, trial was resumed. Lloyd Taylor, who voluntarily appeared on this date, was examined as an adverse witness by the defendant. His testimony added nothing material to defendant's case. Defendant did not call either Justine Adamsak[3/] or Esther Franklin, but she did call and elicit the testimony of Joseph Pickering

---

3/ In her argument on her motion for a new trial based upon numerous grounds, she did mention that this witness had become hostile by August 28.

and Frank Johnson as her witnesses. Both sides rested, the cause was reargued, and again submitted for decision. Later the same date, the court announced its intended decision by minute order. The findings of fact and conclusions of law and the judgment were filed on October 28, 1969, and the judgment was entered on October 29, 1969.

We conclude that the defendant's contention upon this appeal lacks merit for a number of reasons. To begin with, we note that assuming that defendant originally subpoenaed Lloyd Taylor in good faith believing that his testimony was material to proving her defense, the order of continuance made on July 18, 1969, was made by the court out of an abundance of caution against depriving her of his testimony; it was to accommodate her and her witness--it was not a continuance for the benefit of plaintiff or an accommodation of a plaintiff's witness.

As to the June 12 order, we believe that a trial court, sitting without a jury, not only may call witnesses upon its own motion during trial (Evid. Code, § 775), but it has the inherent power to reopen the case for the taking of additional evidence even after submission of the case where it determines in its discretion that the interests of justice require doing so.

Defendant, moreover, has shown no detriment or prejudice resulting from the July 18, 1969, order of continuance.

We deal also with a situation which Witkin, the leading text writer on California law, has succinctly assessed as follows: "The factors which influence the granting or denying of a continuance in any particular case are so varied that the trial judge must necessarily exercise a broad discretion. On an appeal from the judgment (the order itself being nonappealable) it is practically impossible to show reversible error in the granting of a continuance." (4 Witkin, Cal. Procedure (2d ed. 1971) Trial, § 7, p. 2865.)

The two cases cited by defendant, Manha v. Union Fertilizer Co. (1907) 151 Cal. 581, 584, 585 and Kalmus v. Kalmus (1951) 103 Cal. App. 2d 405, merely state the rule now embodied in that part of rule 224, California Rules of Court, which reads: "No continuance before or during trial in civil cases shall be granted except upon an affirmative showing of good cause therefor." Whether the rule is properly applied depends upon the facts shown by the record in a particular case.

Neither section 581, subdivision 3, nor 594, subdivision 1, Code of Civil Procedure, has any application to this case. Plaintiff's attorney was present in court on July 18, 1969, and whether his client was personally present at this civil proceeding is immaterial. "In civil cases personal appearance by a party is not essential; appearance by an attorney is sufficient and equally effective." (1 Witkin, Cal. Procedure (2d ed. 1970) Jurisdiction,

§ 123, p. 652.) In fact, in a civil litigation the court has no inherent power to order the physical presence of a party before it, except as a witness, at any stage of the litigation. (Silvagni v. Superior Court (1958) 157 Cal. App. 2d 287, 291.)

Since the motion for continuance was not, as previously noted, strictly one for an adverse party's benefit, the applicability of sections 595.4 and 596 of the Code of Civil Procedure cited by defendant is open to question. Be that as it may, the statutory law does not exclusively control the grounds for a continuance. (4 Witkin, Cal. Procedure (2d ed. 1971) Trial, § 6, p. 2864.) The requirement of an affidavit under section 595.4, not being jurisdictional in nature, may be excused by the trial court in its discretion and other proof, including oral representations of counsel, in open court, has been to be adequate. (Friedman v. Knecht (1967) 248 Cal. App. 2d 455, 460, 461; Larson v. Solbakken (1963) 221 Cal. App. 2d 410, 430.) The question, moreover, cannot be raised for the first time upon appeal. (Bristol Convalescent Hosp. v. Stone (1968) 258 Cal. App. 2d 848, 862; cf. Pacific Gas etc. Co. v. Taylor (1921) 52 Cal. App. 307, 310.)

Assuming arguendo that section 596 and its provisions relative to depositions is applicable, the record reflects that she waived that right by excusing witness Thomas Depuy, when it was ascertained that he had reservations for taking a trip to Europe. The court's refusal to advise her whether she had a right to take a

deposition was not error. While it is the duty of a trial judge presiding over the trial of a case being conducted by a layman or a lay-woman in propria persona to see that a mis-carriage of justice does not occur through inadvertence, he is not required to act as counsel for that party in the presentation of evidence. (Lombardi v. Citizens Nat. Trust etc. Bank (1955) 137 Cal. App. 2d 206, 209.) A lay person, who is not indigent, and who exercises the privilege of trying his own case must expect and receive the same treatment as if represented by an attorney--no different, no better, no worse. (Doran v. Dreyer (1956) 143 Cal. App. 2d 289, 290.)

Finally, as plaintiff points out, defendant did not object to the continuance in the trial court so that she may not claim it as error on appeal. (Myers v. McDonald (1885) 68 Cal. 162, 166-167; Civ. Code, § 3516; cf. Guardianship of Peterson (1944) 64 Cal. App. 2d 473, 477-478.) If there was error, it was only procedural in nature. (Larson v. Solbakken, supra, 221 Cal. App. 2d 410, 429.) Even assuming arguendo that the order of continuance was erroneous, no miscarriage of justice resulted which would justify a reversal. (Cal. Const., art. VI, § 13; Larson v. Solbakken, supra, at pp. 429, 430.)

The judgment is affirmed.

AISO, J.

We concur:
KAUS, P. J.
STEPHENS, J.

APPENDIX B

[ORDER DENYING REHEARING]

IN THE COURT OF APPEAL

SECOND APPELLATE DISTRICT

STATE OF CALIFORNIA

DIVISION FIVE

Excerpt of Division Five Minutes of

Los Angeles, Cal. December 23, 1971

Civil No. 36631	TITLE	Taylor etc. vs. Bell

THE COURT:

Petition for rehearing denied.

Clay Robbins, Clerk

APPENDIX C

Order Due
February 8, 1972

ORDER DENYING HEARING
After Judgment By the Court of Appeal

2nd District, Division 5, Civil No. 36631

IN THE SUPREME COURT OF THE STATE OF OF CALIFORNIA

IN BANK

TAYLOR, AS EXECUTOR, ETC.

V.

BELL

Filed
Feb. 3, 1972
G. E. BISHEL, Clerk
/s/ Thompson
Deputy

Appellant's petition

for hearing DENIED.

/s/ Wright
Chief Justice

APPENDIX D

[Opinion of the Superior Court for the State of California for the County of Los Angeles, filed Oct. 28, 1969, William G. Sharp, County Clerk, by June Best, Deputy.]

EDWIN RYLAND TAYLOR, Executor of the Estate of JOSEPH LEON TAYLOR, aka JOSEPH L. TAYLOR, Deceased,	No. NW C 11245 FINDINGS OF FACT AND CONCLUSIONS OF LAW
Plaintiff,	
vs.	
DORIS KISTLER BELL,	
Defendant.	

The above entitled action came on for trial May 20, 1969, in Department Northwest "A", the HONORABLE JAMES M. McROBERTS, Judge presiding without a jury, a jury having been waived. Testimony, both oral and documentary, was received on behalf of both parties, and thereafter the case continued until June 6, 1969, for further proceedings, at which date the matter was argued and submitted for determination. Later on said June 6 the Court vacated said submission and upon its own motion reopened the case for the reason stated in the minute order, a copy of

which was sent to counsel for plaintiff and to the defendant, and upon its own motion set the case for further hearing on July 18, 1969; that on July 11, 1969, counsel for plaintiff addressed a letter to the Court, copy to defendant, stating that the witness desired by defendant would not be available until after August 15, 1969, as he was yet outside of the state and would not return until after August 15, 1969; that on July 18, 1969, the Court continued the matter to August 28, 1969, solely in order that the defendant would have the benefit of testimony of the witness Lloyd Arthur Taylor, described in said minute order of June 6, 1969; that said witness did appear and did on said date testify when called by defendant; that on said date last mentioned defendant offered other testimony, both oral and documentary, and the cause was again submitted for determination; that at all aforesaid times, GERALD S. JOHNSON, Esq. appeared as counsel for plaintiff and defendant DORIS KISTLER BELL appeared in propria personum. After hearing the allegations and evidence offered by both parties and argument, and after being fully advised, the Court hereby makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. JOSEPH LEON TAYLOR, also known as JOSEPH L. TAYLOR, died testate in the County of Los Angeles on November 14, 1966. By Letters Testamentary dated December 23, 1966, in Los Angeles Superior

Court Cause No. P 516 219, plaintiff was appointed and continued to act as Executor of said estate.

2. On September 18, 1963, at Los Angeles, California, defendant, for valuable consideration, made, executed and delivered to JOSEPH L. TAYLOR her promissory note of said date in the amount of $1,000.00 payable within six months from date, with interest at the rate of six per cent per annum, Exhibit "1".

3. On October 1, 1963, at Los Angeles, California, defendant, for valuable consideration, made, executed and delivered to JOSEPH L. TAYLOR her promissory note of said date in the amount of $1,000.00 payable within six months from date, with interest at the rate of six per cent per annum, Exhibit "2".

4. On October 18, 19 3, at Los Angeles, defendant, for valuable consideration, made, executed and delivered to JOSEPH L. TAYLOR her promissory note of said date in the amount of $3,000.00 payable within six months from date, with interest at the rate of six per cent per annum, Exhibit "3".

5. On November 20, 1963, at Los Angeles, California, defendant, for valuable consideration, made, executed and delivered to JOSEPH L. TAYLOR her promissory note of said date in the amount of $2,500.00 payable thirty days from date, with interest at the rate of six per cent per annum, Exhibit "4".

6. On February 18, 1964, at Los Angeles, California, defendant, for valuable consideration, made, executed and delivered to JOSEPH L. TAYLOR her promissory note of said date in the amount of $1,000.00 payable within a reasonable time from date with interest at the rate of six per cent per annum, Exhibit "5".

7. Default has been made in each said promissory note, and as to each said promissory note the whole thereof, together with the interest thereon, is now due and unpaid.

8. Each said promissory note contains a provision that in the event legal action is taken to enforce the collection thereof, the maker promises to pay attorney's fees incurred in the collection thereof.

9. As to the promissory note dated February 18, 1964, Exhibit "5", a reasonable period of time for the payment thereof has elapsed.

10. During the lifetime of JOSEPH LEON TAYLOR, also known as JOSEPH L. TAYLOR, defendant rendered services to said JOSEPH LEON TAYLOR in connection with the operation and management of residential real property belonging to said decedent.

11. The services rendered by defendant to the said decedent were substantially rendered subsequent to November 20, 1963, and have a reasonable value of $2,500.00.

12. The sum of $1,000.00 is a reasonable fee for the services of plaintiff's attorney herein.

13. It is true that real property on Hortense Street in Sherman Oaks, California, was purchased in the name of defendant's mother, MAUDE KISTLER.

14. It is true that the decedent and defendant agreed that plaintiff would provide a portion of the down payment for the purchase of the Hortense property.

15. The sum of $5,000.00, loaned by the decedent to defendant, was used by defendant and MAUDE KISTLER as a down payment on the Hortense property.

16. It is not true that the decedent agreed that the profit on sale of the Hortense property would be divided equally between decedent and defendant or that the loan from decedent would be repaid only in this manner.

17. It is true that the decedent purchased other real property described in defendant's first affirmative defense; to wit, 4534 Sylmar, 4524 Sylmar and Bloomfield.

18. It is not true that decedent and defendant agreed to purchase this other real property in the manner alleged in defendant's first affirmative defense, or at all.

19. It is true that this other real property was purchased in the name of the

decedent.

20. It is not true that defendant had or acquired any interest in the real property purchased by decedent.

21. That defendant did not change position in reliance upon any statements of decedent with respect to payment of non-payment of any of said notes and therefore suffered no detriment.

22. The Court finds the allegations of defendant's second affirmative defense in her answer to be untrue.

23. To the extent that any of the Conclusions of Law are or may be adjudged to be Findings of Fact, they are by this reference incorporated herein and made a part of the Findings of Fact as if set forth hereat in full.

CONCLUSIONS OF LAW

1. That there is no estoppel in favor of defendant and against plaintiff's causes of action.

2. That plaintiff have judgment against the defendant in the sum of $9,500.00, subject to an offset of $2,500.00, or a net judgment in favor of plaintiff EDWIN RYLAND TAYLOR. Executor of the Estate of JOSEPH LEON TAYLOR, aka JOSEPH L. TAYLOR, deceased, and against the defendant DORIS KISTLER BELL in the sum of $7,000.00.

3. That plaintiff is entitled to interest at the rate of six percent per annum on each of said promissory notes from the date thereof, all as found in the aforesaid Findings of Fact.

4. That the plaintiff have his costs of suit incurred.

DATED: Oct. 28, 1969, 1969.

/s/ James M. McRoberts
JAMES M. McROBERTS
Judge of the Superior Court

ENTERED
William G. Sharp, County Clerk
Oct. 29, 1969
Book NW 89 Page 042
By T. H. Carrick, Deputy

FILED
Oct. 28, 1969
William G. Sharp, County Clerk
By June Best, Deputy

SUPERIOR COURT OF THE STATE
OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

EDWIN RYLAND TAYLOR, Executor of the Estate of JOSEPH LEON TAYLOR, aka JOSEPH L. TAYLOR, Deceased,	No. NW C 11245
Plaintiff,	JUDGMENT
vs.	
DORIS KISTLER BELL,	
Defendant.	

This cause came on regularly for trial on May 20, 1969, in Department Northwest "A" of the above entitled Court, the HONORABLE JAMES M. McROBERTS, Judge presiding,

sitting without a jury, a jury having been duly waived, and proceedings had on May 20, June 6, July 18, and August 28, 1969. Plaintiff appearing through his attorney, GERALD S. JOHNSON, and defendant appearing in propria persona, and evidence both oral and documentary having been presented by both parties, and the cause having been argued and submitted for decision, and the Court having made and caused to be filed its written Findings of Fact and Conclusions of Law.

IT IS ORDERED, ADJUDGED AND DECREED that plaintiff EDWIN RYLAND TAYLOR, Executor of the Estate of JOSEPH LEON TAYLOR, also known as JOSEPH L. TAYLOR, deceased, have judgment against defendant DORIS KISTLER BELL in the sum of $7,000.00.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that plaintiff have judgment for interest as follows:

(a) On the sum of $1,000.00 from September 18, 1963;

$ 366.44

(b) On the sum of $1,000.00 from October 1, 1963;

$ 364.16

(c) On the sum of $3,000.00 from October 18, 1963;

$1084.50

(d) On the sum of $1,000.00 from November 20, 1963;

$ 356.12

(e) On the sum of $2,500.00 from November 20, 1963;

$ 890.37

for a total of $ 3061.59, interest, being the principal amount in each instance of the promissory notes as set forth in the Findings of Fact and Conclusions of Law.

IT IS FURTHER ORDERED that the plaintiff EDWIN RYLAND TAYLOR, Executor of the Estate of JOSEPH LEON TAYLOR, also known as JOSEPH L. TAYLOR, Deceased, have and recover his costs and disbursements from the defendant DORIS KISTLER BELL in the amount of $ 297.58.

DATED: Oct. 28, 1969, 1969.

/s/ James M. McRoberts
JAMES M. McROBERTS
Judge of the Superior Court

FILED
Oct. 29, 1969
William G. Sharp, Deputy Clerk
By D. Schanley, Deputy

SUPERIOR COURT OF THE STATE
OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

EDWIN RYLAND TAYLOR, Executor of the Estate of JOSEPH LEON TAYLOR, aka JOSEPH L. TAYLOR, Deceased, Plaintiff(s) vs. DORIS KESTLER BELL, Defendant(s)	Case number NWC 11245 NOTICE OF ENTRY OF JUDGMENT

To the above named parties and to their attorneys of record:

You are hereby notified that judgment in the above entitled matter was entered on
Oct. 29, 1969, Book NW 89, Page 042

WILLIAM G. SHARP, County Clerk and Clerk of the Superior Court of the State of California for the County of Los Angeles.

By /s/ D. Schanley Deputy.
D. SCHANLEY

D-11

CERTIFICATE OF MAILING

I, WILLIAM G. SHARP, County Clerk and Clerk of the Superior Court of the State of California for the County of Los Angeles, and not a party to the within action, hereby certify: that on Oct. 29, 1969, I served notice of entry of judgment on the parties in the within action, by depositing true copies thereof, inclosed in sealed envelopes with postage thereon fully prepaid in the United States Post Office mail box at Los Angeles, California addressed as follows:

GERALD S. JOHNSON
4419 VAN NUYS BLVD.
SHERMAN OAKS, CALIFORNIA

DORIS KESTLER BELL
4518 SYLMAR AVE.
SHERMAN OAKS, CALIFORNIA

Dated Oct. 29, 1969

WILLIAM G. SHARP, County Clerk and Clerk of the Superior Court of the State of California for the County of Los Angeles.

By /s/ D. Schanley Deputy.
D. SCHANLEY

APPENDIX E

[ORDER DENYING NEW TRIAL]

SUPERIOR COURT OF THE STATE
OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

Dept. NW A

Date: Dec. 12, 1969
Honorable James M. McRoberts, Judge
L. Millias Deputy Sheriff
J. Best, Deputy Clerk
G. Gorkos (Parties and counsel checked if present)

NW C 11245

Counsel for
Plaintiff Gerald S. Johnson
(checked)

EDWIN RYLAND TAYLOR,
Executor of the Estate of
JOSEPH LEON TAYLOR
aka JOSEPH L. TAYLOR,
Deceased.

Counsel for
Defendant
Doris Kistler Bell
Pro Per
(checked)

VS
DORIS KISTLER BELL

Statistical Code / Clerks Use Only

1	2	3	4	5	6
0600	03	00	01	10	0

Statistical Code / Clerks Use Only

7	8	9	10	11	12
000	00	000	000	00	00

Statistical Code / Clerks Use Only

13	14	15	16
			3

Nature of Proceedings: MOTION OF DEFENDANT TO MOVE FOR A NEW TRIAL

Motion comes on for hearing and is argued.
The Court denies the motion for new trial.
Defendant to give notice.

APPENDIX F

[ORDER DENYING STAY]

IN THE COURT OF APPEAL

SECOND APPELLATE DISTRICT

STATE OF CALIFORNIA

DIVISION FIVE

Excerpt of Division Five Minutes of

Los Angeles, Cal. February 9, 1972

Civil	)	Taylor etc.
No.	TITLE)	vs.
36631	)	Bell

THE COURT:

Application for an order to stay issuance of remittitur denied.

Clay Robbins, Clerk